

IN THE UNITED STATES DISTRICT COURT  
 FOR THE MIDDLE DISTRICT OF ALABAMA  
 NORTHERN DIVISION

CALVIN SCOTT, SR.	)	CASE NO. 2:05-CV-000651-WKW- CSC (WO)
	)	
Plaintiff,	)	
v.	)	
JAMES (BUDDY) SWEARENGIN, JR., et al.,	)	CASE NO. 2:05-CV-000652-WKW- CSC (WO)
	)	
Defendants.	)	
	)	

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CALVIN SCOTT, SR.	)	CASE NO. 2:05-CV-000652-WKW- CSC (WO)
	)	
Plaintiff,	)	
v.	)	
RAY DENNIS, et al.,	)	CASE NO. 2:05-CV-000652-WKW- CSC (WO)
	)	
Defendants.	)	
	)	

**ORDER**

On February 7, 2006, the Magistrate Judge filed a Recommendation (Doc. # 20) finding that the defendants' motions to dismiss (Doc. # 5 and Doc. # 8) are due to be granted and plaintiff's Complaints (Doc. # 1) are due to be dismissed without prejudice as the plaintiff failed to exhaust his administrative remedies. On February 21, 2006, Plaintiff filed an Objection (Doc. # 21) to the Recommendation and demonstrated that he is in pursuit of arbitration with the Secretary of Education as required by the Randolph-Sheppard Vending Stand Act, 20 U.S.C. § 107 *et seq.* This Court has stayed these actions pending the exhaustion of administrative and arbitration remedies.

After an independent and *de novo* review of the record, it is ORDERED that:

1. The Objection (Doc. # 21) is SUSTAINED;

2. The Recommendation (Doc. # 20) of the Magistrate Judge is REJECTED;
3. The motions to dismiss (Doc. # 5 and Doc. # 8) are DENIED without prejudice;
4. The Clerk is DIRECTED to mail a copy of this ORDER to the plaintiff at his address of record.

The plaintiff's actions continue to be stayed, pending the exhaustion of administrative and arbitration remedies. The plaintiff shall continue to report to the Court on the status of his administrative and arbitration proceedings on the first of every month until arbitration is complete. Failure to report may result in dismissal of these actions.

DONE this the 20th day of September, 2006.

/s/ W. Keith Watkins

UNITED STATES DISTRICT JUDGE